

By: Burkett, et al.

H.B. No. 148

A BILL TO BE ENTITLED

AN ACT

relating to aid provided to certain voters; providing criminal penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 86.0051, Election Code, is amended by adding Subsections (b-1) and (f) and amending Subsections (c), (d), and (e) to read as follows:

(b-1) A person to whom Section 86.006(f)(4) applies may not deposit in the mail or with a common or contract carrier more than 10 carrier envelopes containing ballots voted by other persons in an election. This subsection does not apply to a carrier envelope containing a ballot voted by a member of the armed forces of the United States or the spouse or dependent of a member.

(c) A person commits an offense if the person knowingly violates Subsection (b) or (b-1) or knowingly directs a person to engage in conduct that violates Subsection (b-1). It is not a defense to an offense under this subsection that the voter voluntarily gave another person possession of the voter's carrier envelope.

(d) An offense under this section is a Class A ~~[B]~~ misdemeanor, unless the person is convicted of an offense under Section 64.036 for providing unlawful assistance to the same voter in connection with the same ballot, in which event the offense is a state jail felony.

1           (e) Subsections (a) and (c) do not apply if the person is  
2 related to the applicant within the second degree by affinity or the  
3 third degree by consanguinity, as determined under Subchapter B,  
4 Chapter 573, Government Code~~[, or is registered to vote at the same~~  
5 ~~address as the applicant]~~. Subsection (c) does not apply to an  
6 employee of a state licensed care facility or state-certified  
7 facility not subject to state licensure where the voter resides who  
8 is working in the normal course of the employee's authorized  
9 duties.

10           (f) It is an affirmative defense to prosecution for an  
11 offense under this section that the person deposited carrier  
12 envelopes containing ballots voted by another person if the voter  
13 requested assistance from the person in depositing the envelope and  
14 that assistance was provided in the course of the person's normal  
15 duties as caretaker of the voter.

16           SECTION 2. Chapter 86, Election Code, is amended by adding  
17 Section 86.0052 to read as follows:

18           Sec. 86.0052. COMPENSATION OF ANOTHER FOR COLLECTING  
19 BALLOTING MATERIALS PROHIBITED. (a) A person commits an offense if  
20 the person compensates another person to engage in conduct  
21 prohibited by Section 86.0051(b-1).

22           (b) Except as provided by Subsection (c), an offense under  
23 this section is a misdemeanor punishable by:

24                   (1) confinement in jail for a term of not more than one  
25 year or less than 30 days; or

26                   (2) confinement described by Subdivision (1) and a  
27 fine not to exceed \$4,000.

1        (c) An offense under this section is a state jail felony if  
2 it is shown on the trial of an offense under this section that the  
3 defendant was previously convicted two or more times under this  
4 section.

5        SECTION 3. Section 86.006, Election Code, is amended by  
6 amending Subsection (f) and adding Subsection (j) to read as  
7 follows:

8        (f) A person commits an offense if the person knowingly  
9 possesses an official ballot or official carrier envelope provided  
10 under this code to another. Unless the person possessed the ballot  
11 or carrier envelope with intent to defraud the voter or the election  
12 authority, this subsection does not apply to a person who, on the  
13 date of the offense, was:

14            (1) related to the voter within the second degree by  
15 affinity or the third degree by consanguinity, as determined under  
16 Subchapter B, Chapter 573, Government Code;

17            (2) registered to vote at the same address as the  
18 voter;

19            (3) an early voting clerk or a deputy early voting  
20 clerk;

21            (4) a person who possesses the carrier envelope in  
22 order to deposit the envelope in the mail or with a common or  
23 contract carrier and who provides the information required by  
24 Section 86.0051(b) in accordance with that section;

25            (5) an employee of the United States Postal Service  
26 working in the normal course of the employee's authorized duties;

27 [~~or~~]

1           (6) a common or contract carrier working in the normal  
2 course of the carrier's authorized duties if the official ballot is  
3 sealed in an official carrier envelope that is accompanied by an  
4 individual delivery receipt for that particular carrier envelope;  
5 or

6           (7) an employee of a state licensed care facility or  
7 state-certified facility not subject to state licensure where the  
8 voter resides who is working in the normal course of the employee's  
9 authorized duties.

10          (j) It is an affirmative defense to prosecution for an  
11 offense under Subsection (f) that the person possessed an official  
12 ballot or official carrier envelope provided to a voter, other than  
13 the person, if the voter requested assistance from the person and  
14 that assistance was provided in the course of the person's normal  
15 duties as caretaker of the voter.

16          SECTION 4. Section 86.010(h), Election Code, is amended to  
17 read as follows:

18          (h) Subsection (f) does not apply if the person is related  
19 to the applicant within the second degree by affinity or the third  
20 degree by consanguinity, as determined under Subchapter B, Chapter  
21 573, Government Code~~[, or is registered to vote at the same address~~  
22 ~~as the applicant]~~.

23          SECTION 5. Section 86.013(d), Election Code, is amended to  
24 read as follows:

25          (d) The following textual material, as prescribed by the  
26 secretary of state, must be printed on the reverse side of the  
27 official carrier envelope or on a separate sheet accompanying the

1 carrier envelope when it is provided:

2 (1) the prohibition prescribed by Section 86.006(b);

3 (2) the conditions for delivery by common or contract  
4 carrier prescribed by Sections 81.005 and 86.006;

5 (3) the requirements for the legal execution and  
6 delivery of the carrier envelope, including the limitation on  
7 depositing carrier envelopes containing ballots voted by other  
8 persons prescribed by Section 86.0051(b-1);

9 (4) the prohibition prescribed by Section 86.006(e);  
10 and

11 (5) the offenses prescribed by Sections 86.006(f) and  
12 86.010(f).

13 SECTION 6. The changes in law made by this Act apply only to  
14 an offense committed on or after the effective date of this Act. An  
15 offense committed before the effective date of this Act is governed  
16 by the law in effect on the date the offense was committed, and the  
17 former law is continued in effect for that purpose. For purposes of  
18 this section, an offense was committed before the effective date of  
19 this Act if any element of the offense occurred before that date.

20 SECTION 7. This Act takes effect September 1, 2013.